

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

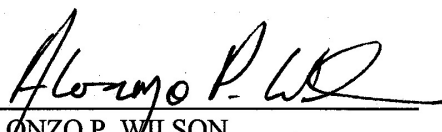
EARNEST CONROD, JR.	:	DOCKET NO. 2:05-cv-1915 Section P
VS.	:	JUDGE MINALDI
LINDA SANDERS, ET AL.	:	MAGISTRATE JUDGE WILSON

ORDER

Currently before court is a "Motion for Summary Judgment" [doc. 24] filed by *pro se* petitioner, Earnest Conrod, Jr. By this motion, the petitioner seeks to have the court grant him the relief that he seeks in his petition for writ of *habeas corpus* due to the respondent's failure to file a response to his petition in a timely manner. The petition is filed pursuant to 28 U.S.C. §2241 and challenges the decision of the Bureau of Prisons to deny his request to participate in the BOP's Residential Drug Abuse Program under 18 U.S.C. § 3621(b) and (e).

Initially the court notes that in *habeas corpus* matters, a default judgment is not an appropriate remedy for the respondent's failure to answer in a timely fashion. The proper action for court to take when a respondent fails to answer is to review the record as presented by the petitioner and to determine whether judgment should be granted in his favor. *See United States ex rel. Mattox v. Scott*, 507 F.2d 919, 924 (7th Cir. 1974); *Stines v. Martin*, 849 F.2d 1323, 1324 (10th Cir. 1988); *Aziz v. Leferve*, 830 F.2d 184, 187 (11th Cir. 1987). However, in this case, a review of the record indicates that the respondent filed an answer on February 27, 2006, within 20 days of service of process. Accordingly, petitioner is not entitled to a judgment in his favor at this point in time, and his motion is DENIED.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 18th day of April, 2006.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE